

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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DEBRA P. HACKETT CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

C&J Associates Pest Control,

CURTIS DUNCAN

Plaintiff,

VS.

CV-06-884-MEF

BOB RILEY  
DRAYTON NABERS  
JAMES MAIN  
TROY KING  
KATHY SAWYER  
COURTNEY TARVER  
JUNE LYNN  
JUDY COBB  
RAY BRESSLER  
JOHN BLOCH  
JOE DEBROW  
BRUCE ALVERSON  
LINDA SHELTON  
KNOX PEST CONTROL  
et al.  
DEFENDANTS

**PLAINTIFF'S MOTION TO APPEAL MAGISTRATE JUDGE APEL ORDER NOT TO  
EXTEND PLAINTIFF'S TIME TO FILE OBJECTIONS TO HIS RECOMMENDATIONS**

Comes now Plaintiff Curtis Duncan, Sole Proprietor/Owner of C & J Associates Pest Control ask District Judge Mark Fuller for good cause to over turn Magistrate Apel decision not to grant Plaintiff an extension of time to file objections to His Recommendations by May 31, 2007. The Magistrate Judge issued his Recommendations on March 23, 2007 received by Plaintiff by mail on March 28, 2007. On April 4, 2007 Plaintiff asked for an extension of time to May 13, 2007. The Magistrate Judge issued an

Order on April 5, 2007 granting Plaintiff an extension of time to April 26, 2007. Plaintiff was involved in a traffic accident on March 27, 2007; Plaintiff's injuries required him to be taken to the hospital by ambulance. Plaintiff's right arm was broken, contusion to my chest and injury to my neck. Plaintiff has been in constant pain since the accident and has been given several pain killers, which include morphine, oxycodone, ibuprofen and hydrocodone. Plaintiff has experienced nausea, drowsiness, lightheadedness and dizziness.

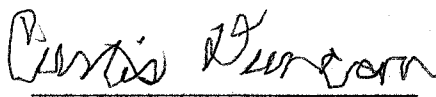
Since the Magistrate Judge issued his Order on April 5, 2007, Plaintiff's Physicians have determined from X-RAYS, CAT SCANS and MRI SCANS of my neck, that Plaintiff has Spinal Stenosis at C4-5 involving the central canal and both nerve root canals. My Physicians recommends Surgery to correct this injury to my spine. Plaintiff is taking pain medications for the injuries to my neck and my broken arm. Plaintiff is physically handicapped, because my right arm is in a cast from my hand to my elbow and Plaintiff wears a neck brace to stabilize my neck. Plaintiff can not perform any physical activity without intensifying the pain in my arm and neck. This physically pain has also prevented Plaintiff from mentally being able to concentrate, to perform the research necessary to prepare my Plaintiff's Motion In Opposition To the Magistrate Judge Recommendation. Plaintiff being the Sole-Proprietor of company still has the responsibility of running my business. Plaintiff has the responsibility of working with the insurance companies concerning the settlement of his traffic accident. Also Plaintiff was already preparing an appeal 07-10888-G to United States Court of Appeals Eleventh Circuit, when your Honor issued Your Recommendation on March 23, 2007.

The Magistrate Judge Orders of April 4, 20 2007 requires Plaintiff to file Objections to His Recommendation by April 26, 2007. The Magistrate Judge has arbitrarily chosen to abuse his discretion by ignoring the material facts and the serious nature of Plaintiff's injuries. Plaintiff's surgery which requires operation on his neck, spine is a major operation. The Magistrate Judge summarily

dismiss Plaintiff's injuries by stating "While Plaintiff continues to suffer from injuries sustained in a recent automobile accident, the undersigned observes that Plaintiff has now filed two-typed motions for extension of time, each at least two pages in length. These motions indicate to the Court that Plaintiff is capable of formulating and filing a written response." Plaintiff was only being a responsible litigant when he filed for an extension of time to put the Magistrate Judge on notice of the seriousness of Plaintiff's injuries. The fact of the matter is that the Plaintiff had to have a family member type the two motions for an extension of time. Preparing a motion for extension of time concerning Plaintiff's health does not remotely compare to the complex nature of the research required for preparing a Motion in Opposition to the 26-page Magistrate Judge Recommendation. Plaintiff have been under physicians care since March 27, 2007, Plaintiff has no physical use of his right hand, arm. Plaintiff's neck injury requires me to wear a neck brace.

Because of the aforementioned reasons and for good cause, Plaintiff asks for an extension of time to May 31, 2007 to file objections to the 26-page Magistrate Judge Recommendation, but also asks the District Judge Fuller to afford Plaintiff the opportunity to reassess his health conditions before the May 31, 2007 dead line. Plaintiff respectfully asks that a decision is made by April 25, 2007, due to the fact that the Magistrate Judge has set the dead line of April 26, 2007.

Respectfully submitted,

 4-23-07

Curtis Duncan  
Plaintiff, Pro Se  
C&J Associates, Pest Control  
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CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2007, I have served a true correct copy of the above and foregoing by first class, United States mail, properly address and postage prepaid, or hand delivered on defendants as follow:

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